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Approved: 7/96 (KMH)  
Revised: 4/00 (BDG)  
Modified:

CFDA Number: CFDA #20.205  
CFDA Title: Highway Planning and Construction  
Award name/number: BRO/STP/CMAQ- (proj. no.)  
Award Year: (year monies funded)  
Federal Agency: Federal Highway Administration, Department of Transportation

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION  
STP-URBAN PROGRAM AGREEMENT**

THIS STP-URBAN AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and the City of \_\_\_\_\_, \_\_\_\_\_ County, Missouri (hereinafter, "City").

WITNESSETH:

WHEREAS, 23 U.S.C. §133 authorizes a Surface Transportation Program (STP) to fund transportation related projects; and

WHEREAS, the City desires to construct certain improvements, more specifically described below, using such STP funding; and

WHEREAS, those improvements are to be designed and constructed in compliance with the provisions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations in this Agreement, the parties agree as follows:

(1) PURPOSE: The improvement contemplated by this Agreement and designated as Project \_\_\_\_\_ involves:

[describe project]

(2) LOCATION: The contemplated improvement designated as Project \_\_\_\_\_ by the Commission is within the city limits of \_\_\_\_\_, Missouri. The general location of the improvement is shown on an attachment hereto marked "Exhibit A" and incorporated herein by reference. More specific descriptions are as follows:

[complete location]

(3) LIMITS OF SYSTEM: The limits of the surface transportation system for the City shall correspond to its geographical area as encompassed by the urban boundaries of the City as fixed cooperatively by the parties subject to approval by the Federal Highway Administration.

(4) ROUTES TO BE INCLUDED: The City shall select the high traffic volume arterial and collector routes to be included in the surface transportation system, to be concurred with by the Commission, subject to approval by the Federal Highway Administration. It is understood by the parties that surface transportation system projects will be limited to the said surface transportation system, but that streets and arterial routes may be added to the surface transportation system, including transfers from other federal aid systems.

(5) INVENTORY AND INSPECTION: The City shall:

(A) Furnish annually, upon request from the Commission or Federal Highway Administration (FWHA), information concerning conditions on streets included in the STP system under local jurisdiction indicating miles of system by pavement width, surface type, number of lanes and traffic volume category.

(B) Inspect and provide inventories of all bridges on that portion of the federal-aid highway systems under the jurisdiction of the City in accordance with the Federal Special Bridge Replacement Program, as set forth in 23 U.S.C. §144, and applicable amendments or regulations promulgated thereunder.

(6) ACCEPTED WITHIN HIGHWAY SYSTEM: Effective upon execution of this Agreement, the Commission accepts the above described portion of the City street system as part of the State Highway System for the purposes of this STP project. However, during the construction period contemplated in this Agreement:

(A) The Commission will assume no police or traffic control functions not obligatory upon Commission immediately prior to the execution of this Agreement, and

(B) The City shall perform or cause to be performed normal maintenance on the project site.

(7) CITY TO MAINTAIN: Upon completion of construction of this improvement, the City shall accept control and maintenance of the improved street and shall thereafter keep, control, and maintain the same as, and for all purposes, a part of the City street system at its own cost and expense and at no cost and expense whatsoever to the Commission. All obligations of the Commission under this Agreement shall cease upon completion of the improvement.

(8) INDEMNIFICATION: The City shall be responsible for injury or damages as a result of any services and/or goods rendered under the terms and conditions of this

Agreement. In addition to the liability imposed upon the City on the account of personal injury, bodily injury, including death, or property damage, suffered as a result of the City's performance under this Agreement, the City assumes the obligation to save harmless the Commission, including its agents, employees and assigns, from every expense, liability or payment arising out of such wrongful or negligent act or omission, including legal fees. The City also agrees to hold harmless the Commission, including its agents, employees and assigns, from any wrongful or negligent act or omission committed by any subcontractor or other person employed by or under the supervision of the City for any purpose under this Agreement, and to indemnify the Commission, including its agents, employees and assigns, from every expense, liability or payment arising out of such wrongful or negligent act or omission. It is the intent of the parties that the Commission is to assume no liability for the completion of the contemplated improvement and, if the Commission should expend any funds in connection with this improvement for which it is not reimbursed by the United States Government, the City will reimburse the Commission for those funds.

(9) CONSTRUCTION SPECIFICATIONS: Parties agree that all construction under the Surface Transportation Program for the City will be constructed in accordance with current Missouri Department of Transportation (MoDOT) design criteria/specifications for urban construction unless separate standards for the surface transportation system have been established by the City and the Commission subject to the approval of the Federal Highway Administration.

(10) ADDITIONAL RIGHT OF WAY:

**OPTION A:** The City shall acquire any additional right of way required for Project \_\_\_\_\_ and in so doing shall comply with all applicable federal laws, rules and regulations including but not limited to 42 U.S.C. §4601, *et seq.*, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

**OPTION B:** The City shall acquire any additional right of way required for Project \_\_\_\_\_ and in so doing shall comply with all applicable federal laws, rules and regulations including but not limited to 42 U.S.C. §4601, *et seq.*, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. However, upon written request by the City and written acceptance by the Commission, the Commission shall acquire right of way for the City. Upon approval of all agreements, plans and specifications by the Commission and by the Federal Highway Administration, the Commission will file copies of said plans in the office of the County Clerk of Missouri, and proceed to acquire by negotiation and purchase or by condemnation any necessary right of way required for the construction of the improvement contemplated herein. All right of way acquired by negotiation and purchase will be acquired in the name of City, and the City will pay to the grantors thereof the agreed upon purchase prices. All right of way acquired through condemnation proceedings will be acquired in the name of the State of Missouri and subsequently released to the City. The City shall pay into court all awards and final judgments in favor of any such condemnees. The City shall also reimburse the

Commission for any expense incurred by the Commission in acquiring said right of way, including but not limited to the costs of surveying, appraisal, negotiation, condemnation, and relocation assistance benefits. Unless otherwise agreed to in writing the Commission shall have the final decision regarding the settlement amount in condemnation.

(11) REIMBURSEMENT: The cost of the contemplated improvements will be borne by the United States Government and by the City as follows:

(A) The United States Government is presently participating in \_\_\_\_\_ percent (\_\_\_%) of the eligible costs of STP-Urban Projects. Any costs for these improvements which exceed federal reimbursement shall be the sole responsibility of the City. The Commission shall not be responsible for any costs associated with these improvements unless specifically identified in this Agreement or subsequent amendments. Any costs incurred by the City prior to authorization from FHWA and notification to proceed from the Commission are not reimbursable costs.

(B) The total reimbursement otherwise payable to the City under this Agreement is subject to reduction, offset, levy, judgment, collection or withholding, if there is a reduction in the available federal funding, or to satisfy other obligations of the City to the Commission, the State of Missouri, the United States, or another entity acting pursuant to a lawful court order, which City obligations or liability are created by law, judicial action, or by pledge, contract or other enforceable instrument. Any costs incurred by the City prior to authorization from FHWA and notification to proceed from the Commission are not reimbursable costs.

(12) PERMITS: The City shall secure any necessary approvals or permits from the Federal Government and the State of Missouri as required to permit the construction and maintenance of the contemplated improvements.

(13) TRAFFIC CONTROL: The plans shall provide for handling traffic with signs, signal and marking in accordance with the Manual of Uniform Traffic Control Devices (MUTCD).

(14) WORK ON STATE RIGHT OF WAY: If any contemplated improvements for Project \_\_\_\_\_ will involve work on the state's right of way, the City will provide reproducible final plans to the Commission relating to such work.

(15) DISADVANTAGED BUSINESS ENTERPRISES: At time of processing the required project agreements with the Federal Highway Administration, the Commission will advise the City of any required goals for participation by disadvantaged business enterprises to be included in the City's proposal for the work to be performed. The City shall submit for Commission approval a disadvantaged business enterprise goal or plan. The City shall comply with the plan or goal that is approved by the Commission and all requirements of 49 C.F.R. Part 23, as amended.

(16) NOTICE TO BIDDERS: The City shall notify the prospective bidders that disadvantaged business enterprises shall be afforded full and affirmative opportunity to submit bids in response to the invitation and will not be discriminated against on grounds of race, color, sex, or national origin in consideration for an award.

(17) PROGRESS PAYMENTS: Progress payments to the City for preliminary engineering and right of way are available upon the City's written request. In the event Project \_\_\_\_\_ is not built or is built to standards not satisfactory to the Federal Highway Administration, the City agrees to repay the Commission for any progress payments made to the City for the respective project and agrees that the Commission may deduct progress payments made to the City from future payments to the City.

(18) OUTDOOR ADVERTISING: The City further agrees that the right of way provided for any Surface Transportation Program improvement will be held and maintained inviolate for public highway or street purposes, and will enact and enforce any ordinances or regulations necessary to prohibit the presence of billboards or other advertising signs or devices and the vending or sale of merchandise on such right of way, and will remove or cause to be removed from such right of way any sign, private installation of any nature, or any privately owned object or thing which may interfere with the free flow of traffic or impair the full use and safety of the highway or street.

(19) PROJECT AUDIT: The Commission will perform a final audit of project costs. The United States Government shall reimburse the City, through the Commission, any monies due. The City shall refund any overpayments as determined by the final audit.

(20) OMB AUDIT: If the \_\_\_\_\_ expend(s) three hundred thousand (\$300,000) or more in a year in federal finance assistance it is required to have an independent annual audit conducted in accordance with OMB Circular A-133. A copy of the audit report shall be submitted to the Missouri Department of Transportation (MoDOT) within thirty (30) days of the issuance of the report. Subject to the requirements of OMB Circular A-133, if the \_\_\_\_\_ expend(s) less than three hundred thousands dollars (\$300,000) a year, the \_\_\_\_\_ may be exempt from auditing requirements for that year but records must be available for review or audit by applicable state and federal authorities.

(21) VENUE: It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(22) LAW OF MISSOURI TO GOVERN: This Agreement shall be construed according to the laws of the State of Missouri. The City shall comply with all local, state and federal laws and regulations relating to the performance of this Agreement.

(23) AMENDMENTS: Any change in this Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment signed and approved by the duly authorized representatives of the City and the Commission.

(24) COMMISSION REPRESENTATIVE: The Commission's chief engineer is designated as the Commission's representative for the purpose of administering the provisions of this Agreement. The Commission's representative may designate by written notice other persons having the authority to act on behalf of the Commission in furtherance of the performance of this Agreement.

(25) NOTICES: Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be deemed given three (3) days after delivery by United States mail, regular mail postage prepaid, or upon receipt by personal or facsimile delivery, addressed as follows:

- (A) To the \_\_\_\_\_:  
\_\_\_\_\_  
Facsimile No.: \_\_\_\_\_
- (B) To the Commission:  
\_\_\_\_\_  
Facsimile No.: \_\_\_\_\_

or to such other place as the parties may designate in accordance with this Agreement. To be valid, facsimile delivery shall be followed by delivery of the original document, or a clear and legible copy thereof, within three (3) business days of the date of facsimile transmission of that document.

(26) NONDISCRIMINATION ASSURANCE: With regard to work under this Agreement, the City agrees as follows:

(A) Civil Rights Statutes: The City shall comply with all state and federal statutes relating to nondiscrimination, including but not limited to Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. §2000d and §2000e, *et seq.*), as well as any applicable titles of the "Americans with Disabilities Act" (42 U.S.C. §12101, *et seq.*). In addition, if the City is providing services or operating programs on behalf of the Department or the Commission, it shall comply with all applicable provisions of Title II of the "Americans with Disabilities Act".

(B) Executive Order: The City shall comply with all the provisions of Executive Order No. 94-03, issued by the Honorable Mel Carnahan, Governor of Missouri, on the fourteenth (14th) day of January 1994, which executive order is incorporated herein by reference and is made a part of this Agreement. This Executive Order, which promulgates a Code of Fair Practices in regard to nondiscrimination, is

incorporated herein by reference and made a part of this Agreement. This Executive Order prohibits discriminatory practices by the state, the City or its subcontractors based on race, color, religion, national origin, sex, age, disability or veteran status.

(C) Administrative Rules: The City shall comply with the administrative rules of the United States Department of Transportation relative to nondiscrimination in federally-assisted programs of the United States Department of Transportation (49 C.F.R. Part 21) which are herein incorporated by reference and made part of this Agreement.

(D) Nondiscrimination: The City shall not discriminate on grounds of the race, color, religion, creed, sex, disability, national origin, age or ancestry of any individual in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The City shall not participate either directly or indirectly in the discrimination prohibited by 49 C.F.R. §21.5, including employment practices.

(E) Solicitations for Subcontracts, Including Procurements of Material and Equipment: These assurances concerning nondiscrimination also apply to subcontractors and suppliers of the City. These apply to all solicitations either by competitive bidding or negotiation made by the City for work to be performed under a subcontract including procurement of materials or equipment. Each potential subcontractor or supplier shall be notified by the City of the requirements of this Agreement relative to nondiscrimination on grounds of the race, color, religion, creed, sex, disability or national origin, age or ancestry of any individual.

(F) Information and Reports: The City shall provide all information and reports required by this Agreement, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Commission or the United States Department of Transportation to be necessary to ascertain compliance with other contracts, orders and instructions. Where any information required of the City is in the exclusive possession of another who fails or refuses to furnish this information, the City shall so certify to the Commission or the United States Department of Transportation as appropriate and shall set forth what efforts it has made to obtain the information.

(G) Sanctions for Noncompliance: In the event the City fails to comply with the nondiscrimination provisions of this Agreement, the Commission shall impose such contract sanctions as it or the United States Department of Transportation may determine to be appropriate, including but not limited to:

1. Withholding of payments under this Agreement until the City complies; and/or
2. Cancellation, termination or suspension of this Agreement, in whole or in part, or both.

(H) Incorporation of Provisions: The City shall include the provisions of paragraph (26) of this Agreement in every subcontract, including procurements of materials and leases of equipment, unless exempted by the statutes, executive order, administrative rules or instructions issued by the Commission or the United States Department of Transportation. The City will take such action with respect to any subcontract or procurement as the Commission or the United States Department of Transportation may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that in the event the City becomes involved or is threatened with litigation with a subcontractor or supplier as a result of such direction, the City may request the United States to enter into such litigation to protect the interests of the United States.

(27) ACCESS TO RECORDS: The \_\_\_\_\_ and its contractors must maintain all records relating to this Agreement, including but not limited to invoices, payrolls, etc. These records must be available at no charge to the FHWA and the Commission and/or their designees or representatives during the period of this Agreement and any extension, and for a period of three (3) years after the date on which the \_\_\_\_\_ receives reimbursement of their final invoice from the Commission.





IN WITNESS WHEREOF, the parties have entered into this Agreement on the date last written below.

Executed by the City this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Executed by the Commission this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

MISSOURI HIGHWAYS AND  
TRANSPORTATION COMMISSION

\_\_\_\_\_

Title \_\_\_\_\_

\_\_\_\_\_  
Secretary to the Commission

Approved as to Form:

\_\_\_\_\_  
Commission Counsel

\_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Approved as to Form:

Title

**[If needed to authorize a city official  
to execute the agreement.]**

Ordinance No

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